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| FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413 | | | EXAMINER WONG, ERIC TAI WAI | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/601,170

Applicant(s)

PEICHL ET AL.

Examiner

ERIC T. WONG

Art Unit

3693

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30, 32 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30, 32 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-30, 32, and 34 are pending. Claims 1, 15-23, 30, 32, and 34 are currently amended; and claims 31 and 33 have been cancelled.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 16-22 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

For purposes of § 101, a "process" has been given a specialized, limited meaning by the courts. Based on Supreme Court precedent and recent Federal Circuit decisions, a process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. If neither of these requirements is met by the claim, the method is not a patent eligible process under § 101 since it is directed to non-statutory subject matter. In addition to being tied to another statutory class, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. See *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

A method claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here claims 16-22 fail to meet the above requirements since there is neither a physical transformation nor a sufficient tie to another statutory class. Applicant has amended claim 16 to recite: that the method is computer-implemented; that the data is retrieved from a computer database; and that the projected human resource budget is stored in a computer storage. Such recitations do not qualify as a sufficient tie to another statutory class since they amount only to insignificant post-solution activity.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8, 15-17, 23-24, 30, 32, 34, rejected under 35 U.S.C. 102(b) as being anticipated by SCS (North Carolina Salary Control System Operator's Manual).

Regarding claims 1, 16, and 23,

SCS teaches a central processing unit; input/output means; at least one data base containing human resource data relating to human resource objects (see section 5.1); and a commitment engine, said commitment engine retrieving human resource data from said at least

one database and evaluating a projected human resource budget for a given human resource object for a predefined period of time based on said retrieved human resource data, said commitment engine further storing a result of said evaluation, monitoring changes in said projected human resource budget during said predefined period of time (see section 1), and providing an automatic advance notification to a user if said projected human resource budget exceeds a fund reserved for the given human resource object for said predefined period of time (see section 2.1.2., "Reserve Balances").

Examiner notes that the salary encumbrances are projected human resource budgets. The reserve in SCS is adjusted in accordance with the salary encumbrances and individual balances may operate in the negative. Therefore, the indication of a negative balance is an advance notification that a projected human resource budget will exceed a fund reserved for a given human resource object.

Regarding claim 2,

SCS teaches retrieving objects from said at least one database, collecting data from said at least one database, and writing updated budget data to said at least one database.

Regarding claim 3,

SCS teaches creating human resource budget control documents, handling errors and triggering workflows to overcome an error (see section 3.2.1), and transferring human resource budget to an exterior accountancy (see section 5.1).

Regarding claim 4,

SCS teaches wherein said human resource data consists of position data and individual employee data.

Regarding claim 5,

SCS teaches wherein said commitment engine calculates an individual employee salary on the basis of said retrieved data.

Regarding claim 6,

SCS teaches wherein said commitment engine calculates said individual employee salary for said predefined period of time as a budget and monitors said budget during said period of time.

Regarding claim 7,

SCS teaches wherein said commitment engine combines several of said individual employee salary budgets into a department or cost center budget (see sections 4.2.1, 4.3.2).

Regarding claim 8,

SCS teaches wherein said commitment engine monitors said department or cost center budget during said period of time (see sections 4.2.1, 4.3.2).

Regarding claim 15,

SCS teaches automatically recognizing changes to said human resource data that are relevant to said human resource budget and automatically re-evaluating said projected human resource budget (see section 2.1.2).

Regarding claims 17 and 24,

SCS teaches reserving an amount of money according to said evaluated human resource data (see section 2.1.1).

Regarding claims 30 and 32,

SCS teaches wherein said human resource data includes human resource position data and human resource object data (see section 5.1).

Regarding claim 34,

SCS teaches a commitment engine configured for retrieving human resource data from at least one database and evaluating a projected human resource budget for a given human resource object for a predefined period of time based on the retrieved human resource data including pre-commitment data concerning both vacant and occupied positions, the commitment engine further storing a result of the evaluation, monitoring changes in the projected human resource budget during the predefined period of time, and providing an automatic advance notification to a user of the projected human resource budget exceeds a fund reserved for the given human object and for the predefined period of time (see at least sections 1, 2.1.2, and 5.1)

Examiner notes that the salary encumbrances are projected human resource budgets. The reserve in SCS is adjusted in accordance with the salary encumbrances and individual balances may operate in the negative. Therefore, the indication of a negative balance is an advance notification that a projected human resource budget will exceed a fund reserved for a given human resource object.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9-10, 18-22, and 25-29, rejected under 35 U.S.C. 103(a) as being unpatentable over SCS in view of GLS (General Ledger System, "Salary Encumbrances").

Regarding claims 9 and 10,

SCS does not explicitly teach wherein said monitoring involves a comparison of said calculated individual employee salary budget with one or more actually effected salary payments.

GLS teaches wherein said monitoring involves a comparison of said calculated budget with actually effected salary payments. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified SCS with wherein the

monitoring involves a comparison of said calculated budget with actually effected salary payments. The modification would have merely been the application of a known technique to a known method ready for improvement yielding predictable results.

Regarding claims 18 and 25,

SCS does not explicitly teach continuously adapting said reserved amount of money by subtracting one or more effected salary payments.

GLS teaches continuously adapting said reserved amount of money by subtracting one or more effected salary payments. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified SCS with continuously adapting said reserved amount of money by subtracting one or more effected salary payments. The modification would have merely been the application of a known technique to a known method ready for improvement yielding predictable results.

Regarding claims 19-22, 26-29,

SCS teaches a reservation step (reserved funds) and a pre-commitment step (salary encumbrances). SCS does not explicitly teach a commitment step based only on retrieved human resource object data, and a subsequent adaptation of one or more results of said respective prior steps; reserving an amount of money for said predefined period of time based on said results of said commitment step; and continuously adapting said results of said pre-commitment and commitment steps based on changes to said human resource position/object data.

GLS teaches a commitment step based only on retrieved human resource object data, and a subsequent adaptation of one or more results of said respective prior steps. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified SCS with a commitment step based only on retrieved human resource object data, and a subsequent adaptation of one or more results of said respective prior steps; reserving an amount of money for said predefined period of time based on said results of said commitment step; and continuously adapting said results of said pre-commitment and commitment steps based on changes to said human resource position/object data. The modification would have merely been the application of a known technique to a known method ready for improvement yielding predictable results.

8. Claims 11-14 rejected under 35 U.S.C. 103(a) as being unpatentable over SCS in view of Visual Rota ("Cash Budgets & Budgetary Control", cited in prior Office action).

Regarding claim 11,

SCS does not explicitly teach calculating position cost simulations for employee positions on the basis of said position data for said predefined period of time, the sum of said position cost simulations being the potential position budget for an employer entity or sub-entity for said predetermined period of time.

Visual Rota teaches calculating position cost simulations for employee positions on the basis of said position data for said predefined period of time, the sum of said position cost

simulations being the potential position budget for an employer entity or sub-entity for said predetermined period of time (see "Indirect Costs", "Using Budgetary Control in Visual Rota"). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified SCS with calculating position cost simulations for employee positions on the basis of said position data for said predefined period of time, the sum of said position cost simulations being the potential position budget for an employer entity or sub-entity for said predefined period of time. The modification would have merely been the application of a known technique to a known method ready for improvement yielding predictable results.

Regarding claim 12,

SCS does not explicitly teach calculating one or more employee cost simulations for an existing employee based on said individual employee data for said predefined period of time, a sum of said employee cost simulations being an actual employee budget for an employer entity or sub-entity for said predefined period of time.

Visual Rota teaches calculating one or more employee cost simulations for an existing employee based on said individual employee data for said predefined period of time, a sum of said employee cost simulations being an actual employee budget for an employer entity or sub-entity for said predefined period of time (see "Indirect Costs", "Using Budgetary Control in Visual Rota"). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified SCS with calculating one or more employee cost simulations for an existing employee based on said individual employee data for said predefined period of time, a sum of said employee cost simulations being an actual employee budget for an employer

entity or sub-entity for said predefined period of time. The modification would have merely been the application of a known technique to a known method ready for improvement yielding predictable results.

Regarding claim 13,

SCS teaches providing an indication for an employee position opening for new personnel based on a difference between said potential position budget and an actual employee budget (see section 2.1.1).

Regarding claim 14,

SCS teaches providing an indication for an employee position opening for new personnel based on a difference between a potential position budget and said actual employee budget (see section 2.1.1).

Response to Arguments

9. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC T. WONG whose telephone number is 571-270-3405. The examiner can normally be reached on Monday-Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

ERIC T. WONG
Examiner
Art Unit 3693

March 24, 2009